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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,287	11/28/2000	Anthony J.M. Garwood	GARW115949	7548

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EXAMINER	
BECKER, DREW E	

ART UNIT	PAPER NUMBER
1761	21

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-21

Office Action Summary	Application No.	Applicant(s)	
	09/724,287	GARWOOD, ANTHONY J.M.	
	Examiner	Art Unit	
	Drew E Becker	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 June 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *353-373 and 422-439* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *353-373 and 422-439* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5,7-12,14, 16
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group Group I in Paper No. 17 is acknowledged.

Specification

2. The abstract of the disclosure is objected to because it exceeds 150 words and because it does not relate to the claimed invention. Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities: page 1 does not include the current status of the parent applications, specifically "now abandoned".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 354, 361, 369-373, and 428-429 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 354, 361, 369, 428 recite "legally required information". It is not clear what types of information would qualify as being "legally required", or by whose authority it would be legally required.

7. Claims 369 and 428 recite "harvesting meat composed of". It is not clear whether "composed" is being used as an open term, such as "comprising", or whether it is being used as a closed term, such as "consisting". For the purposes of examination, it will be assumed to be an open term.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claims 422-423 and 425-426 are rejected under 35 U.S.C. 102(a) as being anticipated by The Wiley Encyclopedia of Packaging Technology, Second Edition. Wiley teaches a method of packaging meat by obtaining meat primals, transferring them to trays, transferring to barrier containers, introducing gases including carbon monoxide, sealing the containers, reducing bacteria, removing oxygen, and storing the containers (page 651-654).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 430-432 and 438-439 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al [Pat. No. 4,171,164] in view of Inglis et al [Pat. No. 6,224,930].

Groves et al teach a method for producing meat by providing two streams of meat with fat, measuring the fat content of the streams, blending the streams in a vessel with gas, a printing station for information such as fat content (column 4, line 66 to 5, line 20), and conduits (Figure 1, #53-56). Groves et al do not teach treating the meat with a bacteria reducing agent, transferring to barrier packages which are case-ready modified atmosphere packages, and removing oxygen from the packages, sealing the packages. Inglis et al teach a method of treating meat by applying a bacteria reducing agent in the form of carbonic acid (column 4, line 50), exposing the meat to carbon dioxide (column 7, line 41), determining the water content and adding the proper amount (column 4, line 10), the use of sealed, case-ready barrier packages (column 3, line 53), and the removal of oxygen and use of a modified atmosphere in the barrier package (column 1, lines 10-18). It would have been obvious to one of ordinary skill in the art to incorporate the carbonic acid and packaging techniques of Inglis et al into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al used raw meat which often included bacteria, since Groves et al would have required some means to package the blended raw meat, since the carbonic acid of Inglis et al would have reduced the amount of bacteria without negatively impacting the taste of the meat (column 3, line 25-28), and since the packaging of Inglis et al would have effectively preserved the meat of Groves et al (column 1, lines 10-18).

12. Claims 353-356, 358-359, 366-373, 427-428, 433-435, and 437 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of Inglis et al, and further in view of Goldsmith [Pat. No. 5,306,466].

Groves et al and Inglis et al teach the above mentioned concepts. Inglis et al also teach the use of carbon dioxide and nitrogen (column 1, line 15). Groves et al and Inglis et al do not teach testing the packaged meat for bacteria. Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as E. coli (abstract; column 1, line 44), the use of indicia (Figure 2, #16), and a tray with a recess (Figure 1, #10). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of Groves et al, in view of Inglis et al, since all are directed to methods of processing and packaging meat, since Groves et al made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract).

13. Claim 357 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al in view of Inglis et al and Goldsmith, as applied above, and further in view of The Wiley Encyclopedia of Packaging Technology, Second Edition.

Groves et al, Inglis et al, and Goldsmith teach the above mentioned concepts. Groves et al, Inglis et al, and Goldsmith do not teach a chub package. Wiley teaches a chub meat package (page 204). It would have been obvious to one of ordinary skill in the art to incorporate the chub package of Wiley into the invention of Groves et al in view of Inglis

et al and Goldsmith, since all are directed to methods of processing and packaging meat, since Groves et al included the blending of ground meat, and since ground meat was often packaged in chub packages as shown by Wiley (page 204).

14. Claims 360-365 and 424 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Wiley Encyclopedia of Packaging Technology, Second Edition in view of Goldsmith.

Wiley teaches a method processing meat by obtaining meat primals with fat and water, reducing the bacteria, transferring the primals to containers, removing the oxygen, sealing the containers, storing the containers, removing the primals and cutting then into portions, placing them in barrier packages, introducing gas into the package, sealing the package, a high oxygen environment, and a low oxygen environment (page 654, first column), and nutrition labeling (pages 674-680). Wiley does not teach testing for bacteria, or E. coli specifically. Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as E. coli (abstract; column 1, line 44). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of Wiley since both are directed to methods of processing and packaging meat, since Wiley made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract).

15. Claims 429 and 436 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of Inglis et al and Goldsmith, as applied above, and further in view of Shaklai [Pat. No. 6,270,829].

Groves et al, Inglis et al, and Goldsmith teach the above mentioned concepts. Groves et al, Inglis et al, and Goldsmith do not teach the use of carbon monoxide. Shaklai teaches a method of packaging meat with carbon monoxide (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the carbon monoxide of Shaklai into the invention of Groves et al, in view of Inglis et al and Goldsmith, since all are directed to methods of processing and packaging meat, since Inglis et al already included a modified atmosphere package (column 1, line 15), and since Shaklai teaches that carbon monoxide maintained the color and freshness of the meat while also retarding bacterial growth (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

Drew E Becker
Examiner
Art Unit 1761

July 14, 2003